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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

NAVNEET SHARDA, M.D., an Individual,

Plaintiff,

vs.

SUNRISE HOSPITAL AND MEDICAL CENTER, LLC, a foreign limited liability company; THE BOARD OF TRUSTEES OF SUNRISE HOSPITAL; SUSAN REISINGER, an individual; DIPAK DESAI, an individual; NEVADA STATE BOARD OF MEDICAL EXAMINERS; KATHERINE KEELEY, an individual; DOE Individuals I through X; and ROE CORPORATIONS and ORGANIZATIONS I through X, inclusive,

Defendants.

Case No. 2:16-cv-02233-JCM-GWF

**STIPULATION AND ORDER TO STAY
DISCOVERY**

Pursuant to LR IA 6-1, LR 7-1, and Federal Rule of Civil Procedure 26(d), Plaintiff Navneet Sharda, M.D. (“Plaintiff”) and Defendants Sunrise Hospital and Medical Center, LLC, including its Board of Trustees (“Sunrise Hospital”), Susan Reisinger, M.D. (“Dr. Reisinger”), and Katherine Kelley, M.D., D.D.S. (“Dr. Keeley”) (collectively, the “Sunrise Defendants”), through their

1 respective undersigned counsel, hereby submit this proposed Stipulation and Order to Stay

2 Discovery:

3 1. A “district court has wide discretion in controlling discovery.” *Little v. City of Seattle*,
 4 863 F.2d 681, 685 (9th Cir. 1988).

5 2. Pursuant to Federal Rule of Civil Procedure 26(c), the Court “may, for good cause,”
 6 issue a protective order to stay discovery. A court also has discretion to stay or limit discovery
 7 during the pendency of a motion that is likely to dispose of a case. *Tradebay, LLC v. eBay, Inc.*, 278
 8 F.R.D. 597, 601 (D. Nev. 2011).

9 3. The goal of Rule 1 of the Federal Rules of Civil Procedure is paramount in evaluating
 10 whether a stay is warranted. Rule 1 provides that the Rules of Civil Procedure shall “be construed
 11 and administered to secure the just, speedy, and inexpensive determination of every action.” *Id.* at
 12 602 (internal quotation marks omitted); *accord Ashcroft v. Iqbal*, 556 U.S. 662, 678–79 (2009)
 13 (“Rule 8 marks a notable and generous departure from the hyper-technical, code-pleading regime of
 14 a prior era, but it does not unlock the doors of discovery for a plaintiff armed with nothing more than
 15 conclusions.”).

16 4. In evaluating whether to stay discovery pending a dispositive motion, Courts
 17 consider: (1) whether the pending motion is “potentially dispositive of the entire case or at least
 18 dispositive of the issue on which discovery is sought;” and (2) whether the pending “motion can be
 19 decided without additional discovery.” *See Tradebay, LLC*, 278 F.R.D. at 602.

20 5. On December 30, 2016, the Sunrise Defendants filed a Motion to Dismiss (See ECF
 21 No. 35) (the “Motion”) pursuant to Federal Rule of Civil Procedure 12(b)(6). The Motion, if granted
 22 in its entirety, would be dispositive of the case.

23 6. Briefing on the Motion is complete and the Parties await a decision from the Court.

24 7. The Parties believe that ***good cause exists*** to stay discovery pending a decision on the
 25 Motion because:

26 (a) While the Parties have differing views on the merits of the Motion, the Parties
 27 agree that the Motion is “potentially dispositive of the entire case” or that the Court’s ruling
 28 on the Motion could narrow the scope of discovery. *See Tradebay, LLC*, 278 F.R.D. at 602.

In other words, the Motion would make discovery unnecessary if granted in its entirety or would have a substantial impact on the scope of discovery if granted in part. For example, antitrust claims require significant discovery unique to such claims. If discovery is not stayed, the parties would be required to engage in such unique discovery before knowing whether such discovery is necessary.

(b) The Parties agree that discovery is unnecessary to decide the Motion. *See id.*

(c) The Parties agree that a stay of discovery will promote the goals of Rule 1 “to secure the just, speedy, and inexpensive determination of every action.” Fed. R. Civ. P. 1

(d) Given that the decision on the Motion could make discovery unnecessary or have a substantial impact on the scope of discovery, the parties agree that good cause exists to stay discovery pending a ruling on the Motion. *See Tradebay, LLC*, 278 F.R.D. at 602.

8. Therefore, based upon the above reasons, which the Parties submit constitute good cause, the Parties hereby stipulate to stay the commencement of discovery pending a ruling on the Motion.

9. The Parties will file a Supplemental Stipulated Discovery Plan and Scheduling Order, if necessary, within fourteen (14) days after the Court’s ruling on the Motion.

Dated this 14th Day of March, 2017

Dated this 14th Day of March, 2017

BAILEY ❖ KENNEDY

LAW OFFICES OF P. STERLING KERR

By: /s/ Paul C. Williams

By: /s/ P. Sterling Kerr

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Attorneys for Plaintiff Navneet Sharda, M.D.

ORDER

IT IS SO ORDERED:

Based on the foregoing finding of good cause, the commencement of discovery shall be stayed pending a ruling on the Sunrise Defendants' Motion to Dismiss. The parties will submit a Supplemental Proposed Discovery Plan and Scheduling Order, if necessary, within fourteen (14) days of the Court's ruling on the Sunrise Defendants' Motion to Dismiss.



GEORGE FOLEY, JR.
UNITED STATES MAGISTRATE JUDGE

Dated: March 27, 2017

Respectfully Submitted by:

BAILEY ♦ KENNEDY

By: /s/ Paul C. Williams

JOHN R. BAILEY

JOSHUA M. DICKEY

PAUL C. WILLIAMS

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